

**MORRISON & FOERSTER LLP**

Attorneys at Law  
 3811 Valley Centre Drive, Suite 500  
 San Diego, California 92130-2332  
 Telephone: (858) 720-5100  
 Facsimile: (858) 720-5125

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**To:** U.S. Patent and Trademark Office  
 MS Amendment

**Facsimile:** (703) 872-9306

**From:** Gregory P. Einhorn

**Date:** February 28, 2005

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**Comments:**

Attorney Docket:	220002066000
Group Art Unit:	1636
Examiner:	S. Kaushal
Serial No.:	09/954,571
Filing Date:	September 11, 2001
Inventor(s):	Kenneth CHIEN et al.
Title:	METHODS FOR CARDIAC GENE TRANSFER (AMENDED)

**Papers attached:**

1. Transmittal (1 page)
2. Fee Transmittal (1 page + duplicate)
3. Petition for 1 Month Extension of Time Under 37 CFR 1.136(a) (1 page)
4. Preliminary Amendment and Response to Restriction Requirement (15 pages)

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SD-246792

PTO/SB/21 (09-04)

Approved for use through 07/31/2005. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/954,571
		Filing Date	September 11, 2001
		First Named Inventor	Kenneth CHIEN
		Art Unit	1636
		Examiner Name	S. Kaushal
Total Number of Pages in This Submission	20	Attorney Docket Number	220002066000

**ENCLOSURES (Check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form (1 page + duplicate)  <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> Amendment/Reply (15 pages)  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request (1 page)  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application  <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____  <input type="checkbox"/> Landscape Table on CD	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <input type="checkbox"/> Fax Cover Sheet (1 page)
Remarks  Customer No. 25225		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	MORRISON & FOERSTER LLP		
Signature			
Printed name	Gregory P. Einhorn		
Date	February 28, 2005	Reg. No.	38,440

I hereby certify that this correspondence is being facsimile transmitted to MS Amendment, the Patent and Trademark Office, facsimile no. (703) 872-9306, on the date shown below.

Dated: February 28, 2005

Signature: (Norman Green)

sd-246708

PTO/SB/17 (2-2002)

Approved for use through 7/31/2006. OMB 0651-0032  
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Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

## FEE TRANSMITTAL For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	(\$)	210.00
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### Complete if Known

Application Number	09/954,571
Filing Date	September 11, 2001
First Named Inventor	Kenneth CHIEN
Examiner Name	S. Kaushal
Art Unit	1636
Attorney Docket No.	220002066000

### METHOD OF PAYMENT (check all that apply)

<input type="checkbox"/> Check	<input type="checkbox"/> Credit Card	<input type="checkbox"/> Money Order	<input type="checkbox"/> None	<input type="checkbox"/> Other (please identify): _____
<input checked="" type="checkbox"/> Deposit Account		Deposit Account Number: 03-1952	Deposit Account Name: Morrison & Foerster LLP	
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)				
<input type="checkbox"/> Charge fee(s) indicated below		<input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee		
<input type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17		<input type="checkbox"/> Credit any overpayments		

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

##### Fee Description

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims		Fee (\$)		Fee Paid (\$)	
59	- 53 = 6	x 25.00	= 150.00		
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)		
3	- 6 =	x	=		

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/50	(round up to a whole number) x		

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)		
Other (e.g., late filing surcharge): 2251 Extension for response within first month		60.00

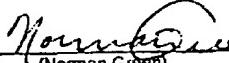
SUBMITTED BY		Registration No. (Attorney/Agent)	Telephone
Signature		38,440	(858) 720-5133
Name (Print/Type)	Gregory P. Einhorn	Date	February 28, 2005

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Dated: February 28, 2005 Signature:   
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Docket No.: 220002066000 /  
UC 94-161-9  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Kenneth CHIEN et al.

Application No.: 09/954,571

Confirmation No.: 7236

Filed: September 11, 2001

Art Unit: 1636

For: METHODS FOR CARDIAC GENE  
TRANSFER (AMENDED)

Examiner: Sumesh Kaushal, Ph.D.

**PRELIMINARY AMENDMENT AND**  
**RESPONSE TO RESTRICTION REQUIREMENT**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

Responsive to the second Election/Restriction Requirement mailed December 28, 2004, Applicants respectfully request entry of the amendment and consideration of the remarks set forth herein. A response to the Office Action was originally due January 28, 2005. Applicants submit herewith a Petition for Extension of Time to extend the time to reply to this Office Action for one month to February 28, 2005. Accordingly, this Response is timely filed.

**Amendment to the claims** are reflected in the listing of claims which begin on page 2 of this paper.

**Remarks/Arguments** begin on page 10 of this paper.

The following documents are enclosed herewith:

- Transmittal letter, Fee Transmittal, Petition to Extend Time, Facsimile cover sheet.

sd-246709